

REMARKS

Claims 1-9, 11-33, and 35 are pending in the present application.

At the outset, Applicants wish to thank the Examiner for withdrawing the previous enablement and indefiniteness rejections in the Office Action of September 9, 2004.

Applicants also wish to thank the Examiner for the indication that the rejection under 35 U.S.C. §101 will be amended in view of the amendments above (see Advisory Action mailed April 14, 2005). Reconsideration of the outstanding grounds of rejection is requested.

The rejection of Claims 31-40 under 35 U.S.C. §112, first paragraph (“written description”) is obviated by amendment and the Examiner’s basis for indicating that this rejection has been maintained as set forth in the Advisory Action mailed April 14, 2005, is traversed.

The Office has alleged that the specification fails to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants have amended Claims 31-33 to be free of the Examiner’s criticisms. Namely, the bacterium has been limited to *Escherichia* bacterium and the repressor has been limited to the repressor of L-methionine biosynthesis system encoded by the metJ gene. Further, Applicants have amended the claims to include specific recitation of the metA, metK, metB, and metL genes from *Escherichia*. Furthermore, Applicants have also specifically defined the homoserine transsuccinylase (see Claim 33(d)).

In view of the foregoing, Applicants submit that the specification provides an adequate description to allow the skilled artisan to recognize what has been invented and what is claimed

is adequately described in the specification within the meaning of 35 U.S.C. §112, first paragraph.

Nonetheless, in the Advisory Action, the Examiner questions the sufficiency of the written description. Specifically, the Examiner asserts that the specification fails to provide a sufficient description (i.e., an explicit recitation of the sequence) for the full scope of the metJ gene, the metA gene, the metK gene, the metB gene, and the metL gene. To this end, the Examiner asserts that the “amendment filed 12/09/2004 does not specifically limit the claims to the *Escherichia* metA, metK, metB and metL genes. There is no specific recitation of the nucleotide SEQ ID NO of each of the recited genes in the claims.” This assertion by the Examiner is incorrect.

The scope of the objected to genes has, in fact, been limited to an *Escherichia* bacterium. Accordingly, the genes relate to the endogenous sequences that would be readily appreciated by the skilled artisan.

Moreover, MPEP §2164.05(a) states:

The specification need not disclose what is well-known to those skilled in the art and preferably omits that which is well-known to those skilled and already available to the public...

Even though Applicants are not required to explicitly disclose the sequences corresponding to the endogenous *Escherichia* metA, metK, metB, and metL genes, Applicants do provide extensive lists of references in the specification from which the actual sequences of the endogenous *Escherichia* metA, metK, metB, and metL genes may be found.

Accordingly, withdrawal of this ground of rejection is requested.

The rejection of Claims 31-40 under 35 U.S.C. §101 is obviated by amendment.

Applicants again note that the Examiner focuses on the bacterium and the modifications thereto in determining whether the ‘hand of man’ is contemplated by the claimed invention. However, the Examiner is again reminded that Claims 31-40 are method (*i.e.*, process) claims and, therefore, do not read on products. Not only are process claims statutorily mandated as patentable subject matter (see 35 U.S.C. §101), the Examiner must look at the claim in its entirety to determine whether the process steps require the ‘hand of man.’ In focusing on the modifications to the bacterium, the Examiner has failed to properly examine this application and overlooked a fundamental distinction between the claimed process and that which could conceivably occur in nature. Specifically, Claim 31 requires that the artisan collect L-methionine from the medium. But for the ‘hand of man’ there would be no way to collect L-methionine from anything much less the culture medium.

In view of the foregoing, Applicants submit that the claimed invention is in full compliance with 35 U.S.C. §101. Nonetheless, in order to avoid any further unnecessary delays in the examination of this application, Claim 31 has been amended to specify that the bacterium is a “recombinant *Escherichia* bacterium.”

Consistent with the Examiner’s indication in the Advisory Action mailed April 14, 2005, Applicants request withdrawal of this ground of rejection.

Applicants submit that the present application is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

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